



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1459
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,209	04/18/2006	Thierry Charbonneaux	1022702-000265	5179

21839 7590 09/11/2009

BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 09/11/2009

Please find below and/or attached an Office communication concerning this application or proceeding.

1. Receipt is acknowledged of a request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e) and a submission, filed on 8/29/09. The submission, however, is not fully responsive to the prior Office action because Applicant filed an Improper RCE with a Shift in invention which is not permitted under MPEP 819. **On 11/18/08 Applicant elected the invention of zinc sulphide in the form of particle coated with at least one mineral compound**. Applicant's election becomes fixed when the claims in an application have received an action on their merits by the Office under MPEP 818.01. On 8/28/09 Applicant filed an improper RCE with a shift of invention wherein **the zinc sulphide particles do not comprise a mineral coating**. In the MPEP Section 706.07(h) it states, "Applicants cannot file an RCE to obtain continued examination on the basis of claims that are independent and distinct from the claims previously claimed and examined as a matter of right (i.e. applicant cannot shift inventions under MPEP 819). Since the submission appears to be a *bona fide* attempt to provide a complete reply to the prior Office action, applicant is given a shortened statutory period of ONE MONTH or THIRTY DAYS from the mailing date of this letter, whichever is longer, to submit a complete reply (i.e. divisional application). This shortened statutory period for reply supersedes the time period set in the prior Office action. This time period may be extended pursuant to 37 CFR 1.136(a).